



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 2899 of 2018

and

WMP. No. 3567 of 2018

V. Waheeda Jayaraman

.. Petitioner

Versus

1. The Union of India
Rep. by its Secretary
Ministry of External Affairs
E-Block, Central Secretariat
New Delhi.
2. The Regional Passport Officer
The Department of External Affairs
Coimbatore - 641 018.
3. The Commissioner,
O/o. The Commissioner Central Excise,
Department of External Affairs,
Thiruchirapalli.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the second respondent to issue passport or temporary travel document to the petitioner by considering the representation of the petitioner dated 30.03.2017 and her application in application No.17-1001598963 within a time that may be stipulated by this Court.

For Petitioner : Mr. Ilyas Ahmed

For R1 & R2 : Mr. B. Rabu Manohar

For R3 : Ms. R.Hemalatha, SSC



ORDER

The prayer made in this writ petition is to issue a Writ of Mandamus directing the second respondent to consider the petitioner's representation dated 30.03.2017 and her application in application No.17-1001598963 for issuing passport or temporary travel document to her within a time to be stipulated by this Court.

2. According to the petitioner, her husband was working under the third respondent as a Joint Commissioner (Technical). During the course of his employment, a first information report came to be registered against the petitioner's husband for the offences punishable under the provisions of Prevention of Corruption Act. After investigation, a charge sheet was filed on 31.05.2006 arraying the petitioner and her father-in-law also as an accused, which was taken on file as C.C. No. 5 of 2006. After trial, on 18.10.2007, the Special Court for CBI cases delivered a Judgement convicting the petitioner and her father in law to undergo rigorous imprisonment for a period of one year along with a fine of Rs.10,000/- each. Against the said order of conviction, she and her father-in-law filed a Criminal Appeal in CrI.A. (MD). No. 556 of 2007 on the file of this Court. Pending appeal, by order dated 18.10.2007, the substantial portion of sentence was suspended by this Court. At this stage, her daughter, who was given in marriage and residing in California, became pregnant and there is no one to take care of her. Therefore, the petitioner applied for passport to travel to United States to take care and assist her daughter during her pregnancy. However, the application for issuing temporary passport has not been processed at all by the second respondent. The petitioner also submitted a representation dated 30.03.2017 to the second respondent but no order has been passed thereof. Finding no other option, she has come up with this writ petition for the aforesaid relief.

3. Upon notice, the respondents 1 & 2 filed a detailed counter affidavit, wherein in paragraph 5, it is specifically averred as follows:

"5. It is respectfully submitted that the petitioner's application could not be considered favourably by the Respondent based on the request, as per Section 6(2)(f) of the Passport Act, 1967 "Subject to the Provision of this Act, The Passport authority shall refuse to issue a passport or travel document for visiting any foreign country under clause (c) of sub-section (2) of section 5 and on the ground that proceedings in respect of an offence alleged to have



been committed by the applicant are pending before a criminal Court in India".... "

4. In view of the averments so made in the counter affidavit filed by the respondents 1 & 2, this Court is of the opinion that there is a clear bar for considering the claim of the petitioner to travel abroad pending finalisation of the criminal proceedings initiated against her. In such view of the matter, no relief can be granted to the petitioner in this writ petition as it is not maintainable. However, liberty is granted to the petitioner to approach the concerned Criminal Court for appropriate relief.

5. Subject to the aforesaid observation, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

av/rsh

To

1. The Secretary,
The Union of India,
Ministry of External Affairs,
E-Block, Central Secretariat,
New Delhi.
2. The Regional Passport Officer,
The Department of External Affairs,
Coimbatore - 641 018.
3. The Commissioner,
O/o. The Commissioner Central Excise,
Department of External Affairs,
Thiruchirapalli.

+1cc to M/s.B.Rabu Manohar, Advocate, S.R.No.41231

WP No. 2899 of 2018

KSM(CO)
SU(27/09/2021)